

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRYL DAVIS,

Plaintiff,

Case No. 14-cv-12569
Hon. Matthew F. Leitman

v.

AUTO-WARES, LLC and
GLENDALE AUTO SUPPLY,

Defendants.

**ORDER GRANTING LEAVE TO FILE FIRST AMENDED COMPLAINT
AND DENYING REQUESTS FOR SANCTIONS**

Plaintiff has filed a motion for leave to file a First Amended Complaint. (See the “Motion,” ECF #12.) Defendants oppose the Motion on the ground that Plaintiff delayed in seeking to amend and on the ground that the proposed amendment would be futile. The Court **GRANTS** Plaintiff leave to file a First Amended Complaint. The timing of the filing is not so late as to unduly prejudice Defendant. And the Court will not deny the proposed amendment on the ground of futility. Defendants have not identified any binding precedent that would require dismissal of the proposed amended claim nor presented a sufficiently compelling justification for deeming the proposed amendment futile at this time.

To be clear, the Court does not mean to suggest that Defendants cannot defeat Plaintiff's newly-added claim as a matter of law at the summary judgment stage of these proceedings. To the contrary, Defendants remain free to attack the proposed claim at the summary judgment stage. The Court is simply ruling that, at this time, leave to amend will not be denied on the ground of futility. Plaintiff may file the proposed First Amended Complaint within seven days.

The Court denies Plaintiff's request for sanctions and likewise declines Defendants' request for attorneys' fees and costs. Neither side has demonstrated that the other's conduct in connection with the pending motion warrants an award of sanctions of any kind.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: April 21, 2015

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 21, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

(313) 234-5113